UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

•••••	••••••
GENENTECH, INC.,)
)
Plaintiff,)
)
VS.) CIVIL ACTION No. 2:06-cv-20-TJW
)
MEDIMMUNE, INC.)
)
) JURY TRIAL DEMANDED
Defendant.)
)
)

MOTION TO DISMISS WITHOUT PREJUDICE

COMES NOW Plaintiff Genetech, Inc. and files this motion to dismiss without prejudice its claims against Medimmune, Inc. and would respectfully show the Court as follows:

I.

Plaintiff does not wish to pursue this cause of action against Medimmune, Inc. at this time.

WHEREFORE PREMISES CONSIDERED, Plaintiff respectfully requests the Court dismiss all claims against Medimmune, Inc. without prejudice.

> Dated: May 15, 2006. Respectfully submitted,

> > MCKOOL SMITH, P.C.

By:__/s/ Sam Baxter_ Samuel F. Baxter Lead Attorney

505 E. Travis, Suite 105 Marshall, TX 75670 Phone: 903-927-2111

Fax: 903-927-2622

sbaxter@mckoolsmith.com

Leora Ben-Ami lbenami@kayescholer.com Patricia A. Carson pcarson@kayescholer.com
Vladimir Drozdoff vdrozdoff@kayescholer.com Peter Fratangelo pfratangelo@kayescholer.com KAYE SCHOLER LLP

425 Park Avenue New York, NY 10022 Telephone: (212) 836-8000 Facsimile: (212) 836-8689

2 31124672.DOC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this notice was served on all counsel who have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by U.S. mail, on this the 15th day of May, 2006.

/s/ Sam Baxter	
Sam Baxter	

31124672.DOC 3